

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.: 09-cv-_____ - ____

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Plaintiff,

v.

ARAPAHOE MOTORS, INC., d/b/a RALPH SCHOMP AUTOMOTIVE,

Defendant.

COMPLAINT AND JURY TRIAL DEMAND

NATURE OF THE ACTION

This is a public enforcement action under Title VII of the Civil Rights Act of 1964, Title I of the Civil Rights Act of 1991, and the Age Discrimination in Employment Act of 1967 to correct unlawful employment practices on the bases of sex and age, and to provide appropriate relief to Charging Parties Deborah Arneson-Gaw, Stephanie Shana Haines, Robert Homme, Al Knoblock, Connie W. Orr, and Ronald Steflick, and Class Claimants Karri Jennifer Butler Coombs, Donita Casteel Fogle, Doris Angela "Angie" Earle, and Norman Karsh, who were adversely affected by such practices. As alleged with greater particularity below: (1) a class consisting of Arneson-Gaw, Haines, Coombs, Fogle, and Earle were subjected to a pattern or practice of unlawful sexual harassment, a hostile work environment, disparate terms and conditions of employment, and/or constructive discharge/termination based upon sex, female; and (2) a class

consisting of Homme, Knoblock, Orr, Stefflick, and Karsh were subjected to constructive discharge/termination based upon age, forty years of age and older.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Sections 704, 706(f)(1) and (3), and 707 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-3, 2000e-5(f)(1) and (3), and 2000e-6 ("Title VII"), Section 102 of the Civil Rights Act of 1991, as amended, 42 U.S.C. § 1981a, and Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) ("ADEA"), which incorporates by reference Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 216(c) and 217 ("FLSA").

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the District of Colorado.

PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission ("EEOC" or "the Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII and the ADEA, and is expressly authorized to bring this action by Sections 704, 706 (f)(1) and (3), and 707 of Title VII, 42 U.S.C. §§ 2000e-3, 2000e-5(f)(1) and (3), and 2000e-6, and Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.

4. Defendant Arapahoe Motors, Inc., d/b/a Ralph Schomp Automotive ("Ralph Schomp"), is a Colorado corporation in good standing.

5. At all relevant times, Ralph Schomp has continuously been doing business in the State of Colorado.

6. At all relevant times, Ralph Schomp has continuously had at least 20 employees.

7. At all relevant times, Ralph Schomp has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g) and (h), and Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).

STATEMENT OF CLAIMS

General Allegations

8. More than thirty days prior to the institution of this lawsuit, Deborah Arneson-Gaw, Stephanie Shana Haines, Robert Homme, Al Knoblock, Connie W. Orr, and Ronald Steflick filed charges with the Commission alleging violations of Title VII and the ADEA by Ralph Schomp.

9. All conditions precedent to the institution of this lawsuit have been fulfilled.

10. Deborah Arneson-Gaw ("Ms. Arneson-Gaw") is female.

11. Ms. Arneson-Gaw was employed by Ralph Schomp as a Sales Representative at Ralph Schomp's Honda dealership from 1997 until December 2000, and again from July 2001 until October 18, 2006.

12. Stephanie Shana Haines ("Ms. Haines") is female.

13. Ms. Haines was employed by Ralph Schomp as a Sales Representative at Ralph Schomp's BMW dealership beginning in 1997.

14. Karri Jennifer Butler Coombs ("Ms. Coombs") is female.

15. Ms. Coombs was employed by Ralph Schomp as a Senior Internet Sales Representative.

16. Donita Casteel Fogle ("Ms. Fogle") is female.

17. Ms. Fogle was employed by Ralph Schomp as a Manager's Assistant.

18. Doris Angela "Angie" Earle ("Ms. Earle") is female.

19. Ms. Earle was employed by Ralph Schomp as a Sales Representative from 1998 until December 2002 and again from June 2004 until March 2006.

20. Robert Homme ("Mr. Homme") is a 65-year-old male.

21. Mr. Homme was employed as a Sales Representative at Ralph Schomp's Honda dealership from February 2003 until his termination on December 18, 2006.

22. Norman Karsh ("Mr. Karsh") is a 64-year-old male.

23. Mr. Karsh was employed as General Sales Manager with Ralph Schomp from approximately 1988 until his demotion, transfer, and constructive discharge in September 2005.

24. Al Knoblock ("Mr. Knoblock") is a 61-year-old male.

25. Mr. Knoblock was employed with Ralph Schomp from 1989 until his termination on March 6, 2006. The last position he held was Training Manager.

26. Connie W. Orr ("Mr. Orr") is a 66-year-old male.

27. Mr. Orr was employed as the Sales Manager at Ralph Schomp's BMW dealership from 1997 until his termination on March 3, 2006.

28. Ronald Stefflick ("Mr. Stefflick") is a 64-year-old male.

29. Mr. Stefflick was employed as a Sales Consultant at Ralph Schomp's Honda dealership from October 2003 until his termination in January 2007.

First Claim For Relief:

Title VII Gender Discrimination

30. Plaintiff EEOC hereby realleges, reasserts, and incorporates ¶¶ 1 through 29 above with the same force and effect as if fully set forth herein.

31. Since at least 1999, Ralph Schomp engaged in unlawful employment practices at its facilities in Colorado, in violation of Sections 706(f)(1) and (3), and 707 of Title VII, 42 U.S.C. §§ 2000e-5(f)(1) and (3), and 2000e-6, and Section 102 of the Civil Rights Act of 1991, as amended, 42 U.S.C. § 1981a, by engaging in a pattern or practice of unlawful sexual harassment, a sexually hostile work environment, and disparate terms and conditions of employment based on gender, including offensive verbal comments and physical touching, demotion, salary reduction, refusal to transfer, and failure to promote, and/or constructive discharge/termination based upon sex, female, against Arneson-Gaw, Haines, Coombs, Fogle, and Earle

32. The effect of the practices complained of has been to deprive Arneson-Gaw, Haines, Coombs, Fogle, and Earle of equal employment opportunities and otherwise adversely affect their status as employees of Ralph Schomp because of their sex, female.

33. The unlawful employment practices complained of were intentional.

34. The unlawful employment practices complained of were done with malice or with reckless indifference to the federally protected rights of Arneson-Gaw, Haines, Coombs, Fogle, and Earle.

Second Claim For Relief:

**Constructive Discharge/Termination
Based Upon Age In Violation Of The ADEA**

35. Plaintiff EEOC hereby realleges, reasserts, and incorporates ¶¶ 1 through 34 above with the same force and effect as if fully set forth herein.

36. Since at least 2005, Ralph Schomp engaged in unlawful employment practices at its Colorado facilities in violation of Section 4(a)(1) of the ADEA, 29 U.S.C. § 623(a)(1), by terminating Homme, Knoblock, Orr, and Steflick, and by constructively discharging similarly situated individuals, including Karsh, based upon their ages, forty years of age and older, and replacing them with younger, less-experienced employees and/or retaining younger employees with lower sales numbers, all of which occurred after a manager in his twenties made age-related comments.

37. The effect of the practices complained of has been to deprive Homme, Knoblock, Orr, Steflick, and Karsh of equal employment opportunities and otherwise adversely affect their status as employees of Ralph Schomp because of their ages, forty years of age and older.

38. The unlawful employment practices complained of were willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Ralph Schomp, its owners, officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, from engaging in any employment practices that discriminate on

the basis of sex and/or age (forty years of age and older), and/or from engaging in retaliation and/or any other employment practice for opposing unlawful discriminatory employment practices.

B. Order Ralph Schomp to institute and carry out policies, practices, and programs which provide equal employment opportunities for females and employees forty years of age and older, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Ralph Schomp to make whole Charging Parties Arneson-Gaw and Haines, and Class Claimants Coombs, Fogle, and Earle by providing appropriate back-pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of its unlawful employment practices, including, but not limited to, reinstatement or an appropriate award of front pay.

D. Grant a judgment requiring Ralph Schomp to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to individuals whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Charging Parties Homme, Knoblock, Orr, and Steflick, and Class Claimant Karsh.

E. Order Ralph Schomp to make whole Charging Parties Arneson-Gaw, Haines, Homme, Knoblock, Orr, and Steflick, and Class Claimants Coombs, Fogle, Earle, and Karsh by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described above, including job search expenses and medical expenses not covered by Ralph Schomp's employee benefit plan, in amounts to be determined at trial.

F. Order Ralph Schomp to make whole Charging Parties Arneson-Gaw and Haines, and Class Claimants Coombs, Fogle, and Earle by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in amounts to be determined at trial.

G. Order Ralph Schomp to pay Charging Parties Arneson-Gaw and Haines, and Class Claimants Coombs, Fogle, and Earle punitive damages for its malicious and reckless conduct described above, in amounts to be determined at trial.

H. Grant such further relief as the Court deems necessary and proper in the public interest.

I. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by this Complaint.

Dated: December 18, 2009

Respectfully submitted,

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Acting General Counsel

GWENDOLYN YOUNG REAMS
Associate General Counsel

U.S. EQUAL EMPLOYMENT
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PLEASE NOTE:

For purposes of service upon the EEOC,
it is sufficient that pleadings, notices, and
court documents be served upon the
Trial Attorneys.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | |
|---|----------------------------|---|---|
| PTF | DEF | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 190 Other Contract 195 Contract Product Liability 196 Franchise	PERSONAL INJURY 310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers' Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury	PERSONAL INJURY 362 Personal Injury - Med. Malpractice 365 Personal Injury - Product Liability 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	610 Agriculture 620 Other Food & Drug 625 Drug Related Seizure of Property 21 USC 881 630 Liquor Laws 640 R.R. & Truck 650 Airline Regs. 660 Occupational Safety/Health 690 Other	422 Appeal 28 USC 158 423 Withdrawal 28 USC 157 PROPERTY RIGHTS 820 Copyrights 830 Patent 840 Trademark SOCIAL SECURITY 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g)) FEDERAL TAX SUITS 870 Taxes (U.S. Plaintiff or Defendant) 871 IRS—Third Party 26 USC 7609	400 State Reapportionment 410 Antitrust 430 Banks and Banking 450 Commerce 460 Deportation 470 Racketeer Influenced and Corrupt Organizations 480 Consumer Credit 490 Cable/Sat TV 810 Selective Service 850 Securities/Commodities/Exchange 875 Customer Challenge 12 USC 3410 890 Other Statutory Actions 891 Agricultural Acts 892 Economic Stabilization Act 893 Environmental Matters 894 Energy Allocation Act 895 Freedom of Information Act 900 Appeal of Fee Determination Under Equal Access to Justice 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 730 Labor/Mgmt. Reporting & Disclosure Act 740 Railway Labor Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act		
210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	441 Voting 442 Employment 443 Housing/Accommodations 444 Welfare 445 Amer. w/Disabilities - Employment 446 Amer. w/Disabilities - Other 440 Other Civil Rights	510 Motions to Vacate Sentence Habeas Corpus: 530 General 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.